

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

In re

Robert Joseph La Rocco,
Lawyer (Bar No. 42536).

Supreme Court No. _____

ODC'S PETITION FOR
INTERIM SUSPENSION (ELC
7.2(a)(1))

Under Rule 7.2(a)(1) of the Rules for Enforcement of Lawyer Conduct (ELC), the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association petitions this Court for an Order of Interim Suspension of Robert Joseph La Rocco pending the outcome of disciplinary proceedings.

At any time when it appears that the continued practice of law by a respondent lawyer during the pendency of disciplinary proceedings will result in a substantial threat of serious harm to the public, ODC, on a recommendation of a Review Committee, may petition this Court for an order suspending the lawyer during the pendency of the proceedings. ELC 7.2(a)(1). On September 14, 2017 and September 15, 2017, a Review Committee of the Disciplinary Board found that Mr. La Rocco's continued practice of law poses a substantial threat of serious harm to the public, and unanimously entered orders in thirteen different matters recommending that Mr. La Rocco be suspended on an interim basis. See Exhibit A to Declaration of Disciplinary Counsel [DC Dec.], filed herewith.

This Petition also is based on the following declarations:

- Declaration of Disciplinary Counsel
- Declaration of Ingrid Parkhurst
- Declaration of Zachary Hogan
- Declaration of Jennifer Reed
- Declaration of Gail Reyes

Mr. La Rocco's continued practice of law poses a substantial threat of serious harm to the public. The Supreme Court should enter an order suspending Mr. La Rocco's license to practice law pending the outcome of the disciplinary proceedings.

I. STATEMENT OF GROUNDS/ARGUMENT

Mr. La Rocco was admitted to practice in Washington on June 7, 2010 and is on active status with the Washington State Bar Association. DC Dec. ¶ 5. Since May 2016, ODC has received 23 grievances from clients and former clients against Mr. La Rocco. *Id.* at ¶ 8. Two of these grievances were consolidated into one formal proceeding, which was tried before a hearing officer on August 28, 2017. *Id.* at ¶¶ 9, 11. The hearing officer orally ruled that ODC had proven most, if not all, of the charges against Mr. La Rocco, but has not yet issued written findings or a sanction recommendation. *Id.* at ¶ 11-12. ODC is seeking disbarment. *Id.* at ¶ 12.

On September 14 and 15, 2017, a Review Committee of the

Disciplinary Board ordered an additional 13 grievances to hearing. *Id.* at Ex. A. Nine more grievances are pending investigation in the Office of Disciplinary Counsel. *Id.* at Ex. W-EE. Four of these have been filed since August 2017. *Id.* at Ex. BB-EE.

The grievances reveal an escalating pattern of serious misconduct often involving vulnerable clients. Mr. La Rocco has taken money from clients, done little, if any, work, lied to the clients about the status of their cases, stopped communicating with them altogether, and failed to return their money and documents. *Id.* at Ex. D-P, W-EE. His misconduct has led to his suspension in bankruptcy court in the Western District of Washington. *Id.* at Ex. R-U. A grievance filed by all four of the Whatcom County Superior Court judges summarizes the harm that Mr. La Rocco has inflicted on his clients and the legal system:

Several people who are parties to current cases in our Court have made complaints, or requests for assistance in terminating representation, to our court clerk's office. The complainants indicated that Mr. La Rocco has failed or refused [to] perform an essential function of the representation: To appear at a hearing, to defend important allegations, or to file required documents, including orders to finalize dissolution proceedings and parenting plans. In addition, the complainants have reported to both our court clerks as well as to judges while on the record, that they have been unable to reach Mr. La Rocco by telephone or email and that he vacated his offices without leaving any forwarding address or information that would allow his clients to reach him. Further, they have represented to the court that they had paid retainers and other fees and had

sought return of those retainers after Mr. La Rocco did not complete tasks he agreed to do and were unable to contact Mr. La Rocco and had not had their retainers returned. The complainants' inability to reach Mr. La Rocco and his failure to return their calls as well as the calls of opposing counsel has resulted in the complete halt to proceedings as opposing counsel cannot speak to the complainants directly and Mr. La Rocco has, apparently, not communicated with his clients or opposing counsel in their cases.

Id. at Ex. W.

Mr. La Rocco has failed to cooperate with ODC's investigation of the grievances, putting an undue strain on ODC's resources and hampering its ability to protect the public. *Id.* at ¶¶ 13-14.

A. Formal Proceedings

On January 20, 2017, ODC filed a Formal Complaint against Mr. La Rocco, alleging that Mr. La Rocco took money from a client, Joseph Shahan, to file his bankruptcy matter, failed to communicate with him, then falsely represented that he had filed Mr. Shahan's bankruptcy matter when he had not. *Id.* at ¶ 10. On May 23, 2017, ODC amended the Formal Complaint, alleging that, in addition to the facts set forth above, in a separate family law matter, Mr. La Rocco took money from a client, Tammie Beldin, to represent her in a child support and post-dissolution matter. *Id.* He did no work, failed to communicate with Ms. Beldin, and never refunded any money to her. *Id.* The charged violations included: RPC 1.3 (diligence), RPC 1.4 (communication), RPC 5.3 (failure to

supervise non-lawyer assistants), RPC (8.4)(I) (failing to cooperate with ODC's investigation), RPC 8.4(c) (conduct involving dishonesty, fraud, deceit, or misrepresentation), RPC 8.4(d) (conduct prejudicial to the administration of justice), RPC 4.1 (truthfulness in statements to others), RPC 3.3(a) (candor toward the tribunal), RPC 3.4(c) (knowingly disobeying an obligation under the rules of the tribunal), RPC 1.5 (unreasonable fees) and RPC 1.16(d) (failing to return unearned fees at the conclusion of the representation). *Id.* at Ex. B.

A disciplinary hearing was held on August 28, 2017. In his oral ruling at the conclusion of the case, the hearing officer found that ODC had proven by a clear preponderance of the evidence "most, if not all, of the allegations charged and counts made" Ex. C. at 176-7. The hearing officer has not yet issued his written findings. *Id.* at ¶ 12. ODC is seeking disbarment. *Id.*

B. Bankruptcy Matters

On June 30, 2016, in orders entered on two separate client matters, the United States Bankruptcy Court for the Western District of Washington ordered Mr. La Rocco to disgorge fees and suspended Mr. La Rocco from the practice of bankruptcy until he completed a total of ten hours of Washington State Bar Association approved training on consumer bankruptcy law. *Id.* at Ex. R. In his testimony at the August 28,

2017 disciplinary hearing, Mr. La Rocco acknowledged failing to follow the court's orders and failing to disgorge fees. *Id.* at Ex. C pp. 151-153.

Because Mr. La Rocco did not comply with the Bankruptcy Court's June 30, 2016 orders, on September 27, 2016, the United States Trustee filed a complaint seeking sanctions against Mr. La Rocco and his firm for misconduct in ten bankruptcy cases. *Id.* at Ex. T.

Mr. La Rocco did not respond to the Trustee's complaint. *Id.* at Ex. U. On November 30, 2016, the bankruptcy court entered a default judgment against Mr. La Rocco, requiring him to pay more than \$12,000 in civil penalties and disgorge his fees within 60 days. *Id.* The order suspended Mr. La Rocco from bankruptcy practice in the Western District of Washington for not less than one year. *Id.* Mr. La Rocco remains suspended from practice in the Western District of Washington bankruptcy courts. *Id.* at ¶ 6.

Even though Mr. La Rocco has been suspended from practicing in bankruptcy court since June 30, 2017, he has failed to inform his bankruptcy clients about his suspension, and in at least three cases lied to the clients and told them that their cases were pending when they were not. *Id.* at Ex D, E and G.

1. Gail Reyes Grievance

One of these clients was Gail Reyes. In April 2016, Ms. Reyes

paid Mr. La Rocco \$1,600 to represent her in a bankruptcy proceeding in bankruptcy court. *See* Declaration of Gail Reyes [Reyes Dec.], filed herewith. The fee agreement stated that the \$1,600 would be paid in its entirety before the bankruptcy would be filed with the bankruptcy court. Reyes Dec. at Ex. A.

Ms. Reyes gave Mr. La Rocco checks totaling \$1,600 according to their agreed payment plan: five checks in the amount of \$250, and one in the amount of \$350, to be cashed between April 22, 2016 and July 5, 2016. *Id.* at ¶ 4.

As noted, on June 30, 2016, the Bankruptcy Court suspended Mr. La Rocco pending completion of additional training on consumer bankruptcy law. DC Dec. at Ex. R. Mr. La Rocco did not inform Ms. Reyes of the suspension. *Id.* at ¶ 18.

Mr. La Rocco cashed all of the checks that Ms. Reyes gave him according to the schedule that they had agreed upon. *Id.* at ¶ 6. On July 5, 2016, Mr. La Rocco cashed Ms. Reyes' final \$350 check. *Id.* at Ex. B. Mr. La Rocco never filed a bankruptcy petition on behalf of Ms. Reyes. DC Dec. at ¶ 17.

In September 2016, Ms. Reyes made an appointment to meet with Mr. La Rocco, but he cancelled it. Reyes Dec. ¶ 7. In the following weeks, Ms. Reyes called repeatedly about the status of her case, with no

response. *Id.* at ¶ 8. In the beginning of November 2016, Ms. Reyes went to Mr. La Rocco's office and happened to catch him leaving the elevator. *Id.* at ¶ 10. He told her that they would go to court on November 21, 2016. *Id.* at ¶ 16. In fact, there was no court date on November 21, 2016 because Mr. La Rocco had never filed Ms. Reyes' petition with the bankruptcy court. DC Dec. at ¶ 17. Mr. La Rocco had no further contact with Ms. Reyes. Reyes Dec. at ¶ 16. In his April 2017 deposition taken by ODC, Mr. La Rocco acknowledged that he did no work for Ms. Reyes and owed her a full refund. DC Decl, Ex. Q, pp. 63-64, 66. However, he has not refunded any money to Ms. Reyes. Reyes Dec. at ¶ 17.

2. Ingrid Parkhurst Grievance

Ingrid Parkhurst was another bankruptcy client. Ms. Parkhurst is 80 years old. Declaration of Ingrid Parkhurst, [Parkhurst Dec.] filed herewith, at ¶ 2. After her husband died, Ms. Parkhurst had trouble paying her bills. *Id.* at ¶ 3. In April 2016, she paid Mr. La Rocco \$1,600 to represent her in a Chapter 7 bankruptcy proceeding. *Id.* at ¶ 6. As stated above, Mr. La Rocco was suspended from practicing law in the United States Bankruptcy Court for the Western District of Washington in June 2016. DC Dec. at Ex. R. Beginning in July 2016, Ms. Parkhurst called Mr. La Rocco repeatedly and left messages with Mr. La Rocco seeking information about her case, but Mr. La Rocco did not return her calls.

Parkhurst Dec. at ¶ 11. In November 2016, Mr. La Rocco told Ms. Parkhurst that he had filed her petition and that her case would be final in a couple of months. *Id.* at ¶ 12. This was not true. Mr. La Rocco never filed a petition on behalf of Ms. Parkhurst. DC Dec. at ¶ 18. Mr. La Rocco stopped communicating with Ms. Parkhurst. Parkhurst Dec. at ¶¶ 14-20. Ms. Parkhurst eventually learned about La Rocco's suspension from her new lawyer. *Id.* at 21. Mr. La Rocco has never provided Ms. Parkhurst with a refund. Parkhurst Dec. at ¶ 24.

C. Dissolution Matters

Mr. La Rocco also has engaged in a similar pattern of misconduct in his dissolution cases. In grievance after grievance, clients allege that Mr. La Rocco has taken their money, done nothing, and in many cases lied to them, telling them that he had done work on their cases and set motions, when had not. DC Dec. at Ex. H, I, J, K, L, M, Q, P, X, Y, AA, EE.

1. Jonathan Reed Grievance

One of these clients was Jonathan Reed, a disabled adult. Declaration of Jennifer Reed [Reed Dec.], filed herewith. In January 2017, Mr. Reed's mother, Jennifer Reed, contacted Mr. La Rocco on Mr. Reed's behalf.¹ *Id.* at ¶ 4. The mother of Mr. Reed's children had taken the children for a weekend visit and refused to return them. *Id.* at ¶ 5.

¹ Because Mr. Reed has a learning disability that limits his understanding, Ms. Reed acts as Mr. Reed's representative. Reed Dec. ¶ 2.

The mother was homeless and abusing alcohol and drugs. *Id.* In addition, one of the children had a medical condition and the mother was not providing the necessary medication. *Id.* As of April 1, 2016, there was an active parenting plan action between Mr. Reed and the mother of his children in Whatcom County Superior Court No. 16-3-00223-4, but there was no parenting plan filed. *Id.* at ¶ 3.

Mr. La Rocco advised Ms. Reed he could get the children returned very quickly. *Id.* at ¶ 7. Mr. La Rocco stated his fee would be approximately \$3,500. *Id.* Mr. La Rocco agreed to accept \$1,000 down, with monthly payments of \$500 toward the remaining balance. *Id.* Ms. Reed wrote Mr. La Rocco a personal check for \$1,000. *Id.* at ¶ 8.

Mr. La Rocco told Mr. Reed that he would appear before a commissioner on February 1, 2017, to present an emergency ex parte order requiring the return of the children. *Id.* at ¶ 11. Mr. La Rocco did not file anything on Mr. Reed's behalf and did not appear in court. DC Dec. at ¶ 20. Ms. Reed contacted Mr. La Rocco in the evening hours of February 1, 2017. Reed Dec, at ¶ 12. Mr. La Rocco falsely stated that the commissioner had denied the request for an emergency ex parte order. *Id.*

Mr. La Rocco told Mr. Reed that he would need to file additional paperwork. *Id.* Mr. La Rocco stated he would have the paperwork ready to sign and file on February 2 or 3. *Id.*

On February 10, 2017, Ms. Reed emailed Mr. La Rocco and asked if the document had been filed, if there was a court date, and if the mother had been served. *Id.* at ¶ 20. Mr. La Rocco responded by email “yes to both!” *Id.* This was untrue. Mr. La Rocco had not filed anything on Mr. Reed’s behalf and there was no court date. *Id.* at ¶ 23. Thereafter, Mr. La Rocco stopped communicating with the Reeds. *Id.* at ¶ 24. On February 13, 2017, Ms. Reed emailed La Rocco, requesting he return all original documentation they had provided and refund the money paid. *Id.* at Ex. C. Mr. La Rocco did not respond to Ms. Reed’s request for documents or request for a refund. *Id.* at ¶ 24.

On February 14, 2017, Ms. Reed filed a Notice to Terminate Mr. La Rocco as Mr. Reed’s lawyer with the Whatcom County Superior Court. *Id.* at ¶ 25. The next day, Mr. La Rocco sent an email stating that he was in court, but had received service confirmation “on the other side” and would call when he was available. *Id.* at ¶ 26. This was not true. As of February 15, 2017, Mr. La Rocco had not filed anything in Whatcom County Superior Court on behalf of Mr. Reed. DC Dec. Ex FF.

On February 15, 2017, Ms. Reed emailed Mr. La Rocco and again demanded the return of Mr. Reed’s original documents and a refund of the funds she had paid him. Reed Dec. at Ex. D. In the same email, she told Mr. La Rocco that he had been “legally and officially terminated.” *Id.* On

February 16, 2017, Mr. La Rocco filed a motion for temporary family law order and accompanying documents in Whatcom County Superior Court. DC dec. at Ex. FF. Mr. La Rocco has provided no refund, file or statement to Ms. Reed or Mr. Reed. Reed Dec. at ¶ 32.

2. Zachary Hogan Grievance

In another matter, Mr. La Rocco lied to a client repeatedly for years, assuring him that his dissolution matter was proceeding, when in fact it had been dismissed. *See* Declaration of Zachary Hogan [Hogan Dec.] filed herewith. In 2011, Zachary Hogan was an active member of the military deployed in Afghanistan. *Id.* at ¶ 2. While deployed, his wife informed told him that she wanted a divorce. *Id.* at ¶ 2. The military began deducting child support from his pay, even though his wife's child was not his. *Id.* at ¶ 3. In June 2011, Mr. Hogan paid Mr. La Rocco \$3,000. *Id.* at ¶8. In August 2011, Mr. La Rocco filed a petition for dissolution in Thurston County Superior Court No. 11-3-01258-2. *Id.* at ¶ 9.

After several months, Mr. Hogan asked Mr. La Rocco what was taking so long. *Id.* at ¶ 10. Mr. La Rocco assured him that everything would be completed soon. *Id.* In January 2012, Mr. La Rocco told Mr. Hogan that his wife had defaulted. *Id.* at ¶11. In fact, Mr. La Rocco had not yet served the dissolution petition on Mr. Hogan's wife and there was

no default. *Id.* at ¶ 12. In April 2012, the court issued an order to show cause because no proof of service had been filed for more than four months. DC Dec. at ¶ 24. Mr. La Rocco received, but did not respond to this notice. *Id.* at 25. The case was dismissed in July 2012. *Id.* at ¶ 24. Over the next two years, Mr. La Rocco lied to Mr. Hogan, and told him that his dissolution was pending and that he was “pushing as fast as [he] can.” Hogan Dec. ¶¶ 18-20. In May 2013, Mr. Hogan contacted the court and learned that his case had been dismissed in 2012. *Id.* at ¶ 22. Mr. Hogan confronted La Rocco, who claimed it was all a mistake by the court and he would re-file the case immediately. *Id.* at ¶ 23. Mr. Hogan did not want to start over with a new attorney, so he gave Mr. La Rocco another chance. *Id.* at ¶ 24. In June 2013, Mr. La Rocco filed a Petition to De-establish Parentage and a proposed Order, in Thurston County Superior Court No. 13-5-50063-7, but never filed anything else. *Id.* at ¶¶ 25, 39.

In August 2013, Mr. La Rocco assured Mr. Hogan that his dissolution had been filed and that he was awaiting a hearing. *Id.* at ¶ 27. This was not true. Mr. La Rocco did not file the dissolution until May 7, 2014. *Id.* at ¶ 30. Over the next three years, Mr. La Rocco claimed that he was attending hearings, but never gave Mr. Hogan the dates or times, and told him that he did not need to attend. *Id.* at ¶ 32. When Mr. Hogan asked what the hearings were, Mr. La Rocco would say that they were

"normal negotiations." *Id.* On March 14, 2017, Mr. La Rocco told Mr. Hogan that his case was going to trial on March 21, 2017. *Id.* at ¶ 33. On March 20, 2017, Mr. La Rocco called and told Mr. Hogan that the hearing was postponed to allow Mr. La Rocco to prepare for a criminal case. *Id.* None of this was true. *Id.* at ¶ 34. Mr. Hogan is still not divorced. *Id.* at ¶ 43.

D. Police Reports Regarding La Rocco

In the course of ODC's investigation, ODC obtained public records from the Bellingham Police Department. DC Dec., Ex. V. The reports indicate that at least four clients have reported to police that Mr. La Rocco had taken their funds and failed to perform services as agreed. *Id.* Some reported that Mr. La Rocco had closed his office and they were unable to locate him. *Id.*

E. Recently Filed Grievances

Mr. La Rocco's misconduct has shown no sign of abating. In addition to the two matters that were brought to a formal hearing and the thirteen matters that have been ordered to hearing, there are nine more grievances in investigation. Four of these grievances have been filed since the beginning of August 2017, and follow a similar, and even accelerating, pattern. These recently-filed grievances, some of which allege misconduct that occurred while Mr. La Rocco had a pending disciplinary proceeding

in which he was charged with the same type of misconduct, demonstrate that Mr. La Rocco continues to pose a serious threat to the public.

In a grievance filed on August 6, 2017 [ODC File No. 17-01284], the grievant alleges that Mr. La Rocco paid himself a portion of her maintenance payments, which were required by court order to be made through his office. DC Dec., Ex. BB. In August 2016, a court found that Mr. La Rocco retained \$1,485.55 of the funds that the grievant's husband had paid to Mr. La Rocco for the grievant's maintenance, and ordered Mr. La Rocco to repay the funds by September 8, 2016. *Id.* at p. 5. Mr. La Rocco did not pay the funds or appear at the review hearing. *Id.* at Ex. II. The court entered a *sua sponte* order requiring Mr. La Rocco to appear in court the next day. *Id.* at Ex. BB, p. 7. Mr. La Rocco appeared but did not pay the funds until September 16, 2016. *Id.* at Ex. JJ and KK.

In a grievance filed on August 11, 2017 [ODC File No. 17-01320], a disabled client alleges that he has been trying to obtain his original documentation from Mr. La Rocco for over two years and has tried to contact him in-person, by phone, by email and through third parties, to no avail. *Id.* at Ex. CC.

In another grievance, filed August 15, 2017 [ODC File No. 17-01376], a client alleges that he paid Mr. La Rocco \$2,000, that Mr. La Rocco lied to him about the work that he had done on his case, and

required that the client drive 1,000 miles to a hearing that Mr. La Rocco had not even scheduled. *Id.* at Ex. CC. Mr. La Rocco has refused to refund the client's money. *Id.*

Finally, in a fourth grievance, filed August 16, 2017 [ODC File No. 17-01365], the grievant alleges that in December 2016, Mr. La Rocco took \$3,750 from her father-in-law to pay a court-ordered evaluator in her family law case, but that Mr. La Rocco never paid the evaluator. *Id.* at Ex. EE. When the opposing party made a motion for terms for her failure to pay the evaluator, Mr. La Rocco did not inform his client of the motion, and instead, in February 2017, appeared and informed the court that he could not reach his client. DC Dec., Ex. LL. He did not tell the court that the client's father-in-law had paid the evaluator's fee to him. *Id.* In February, 2017, the court awarded terms against Mr. La Rocco's client. *Id.* In August 2017, the client, with new counsel, filed a contempt action against Mr. La Rocco. *Id.* at Ex. EE, p. 15. The court did not find contempt, but found that Mr. La Rocco violated Civil Rule (CR) 11 by intentionally not paying the evaluator's fees and not informing the court that these fees had been given to him by the client's father-in-law. *Id.* at Ex. OO. In September 2017, the court ordered Mr. La Rocco to pay \$3,488.73 in fees to the grievant. *Id.*

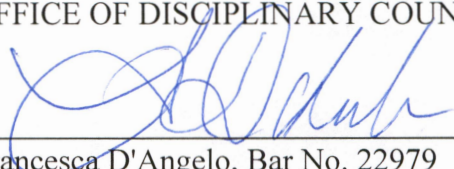
II. CONCLUSION

Based on the matters that are currently pending in the disciplinary system, it will be many months before the Supreme Court makes a final determination on Mr. La Rocco's license to practice law. In the meantime, his continued practice poses a substantial threat of serious harm to the public. Accordingly, ODC requests that this Court issue an order to show cause under ELC 7.2(b)(2) requiring Mr. La Rocco to appear before this Court on such date as the Chief Justice may set, and then and there show cause why this petition for immediate interim suspension should not be granted.

DATED THIS 26 day of September, 2017.

Respectfully submitted,

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WASHINGTON STATE BAR ASSOCIATION

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